

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MATTHEW SMITH, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

GREAT CLIPS, INC., a Minnesota
corporation,

Defendant.

Case No. 2:13-cv-01323-CRE

Magistrate Judge Cynthia Reed Eddy

**STIPULATION TO ALLOW PLAINTIFF TO CONDUCT DISCOVERY
PRIOR TO THE PARTIES' RULE 26(f) CONFERENCE AND TO EXTEND
DEFENDANT'S DEADLINE TO RESPOND TO THE COMPLAINT**

This Stipulation is entered into by and among Plaintiff Matthew Smith ("Plaintiff") and Defendant Great Clips, Inc. ("Defendant"), by and through their respective counsel.

WHEREAS, on September 10, 2013, Plaintiff filed a class action complaint against Defendant alleging violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227 (Dkt. 1);

WHEREAS, Defendant waived service of the complaint on September 27, 2013 (*see* Dkt. 3), and therefore its original due date for filing an answer or other response to the Complaint is November 25, 2013;

WHEREAS, the Parties have begun to exchange documents and information in an attempt to narrow the legal and factual issues in dispute;

WHEREAS, one of the principal issues in dispute is whether Plaintiff provided consent to receive certain text message advertisements from Defendant;

WHEREAS, Defendant contends that Plaintiff provided consent to receive such text

message advertisements electronically from a computer with the IP address 98.70.37.156, and Plaintiff disputes such contention;

WHEREAS, Plaintiff's preliminary investigation shows that the IP address 98.70.37.156 is registered to the internet service provider BellSouth Internet Group ("BellSouth");

WHEREAS, under FRCP 26(d)(1), "[a] party may not seek discovery from any source before the parties have conferred as required by Rule 26(f), except in a proceeding exempted from initial disclosure under Rule 26(a)(1)(B), or when authorized by these rules, by stipulation, or by court order";

WHEREAS, the Parties believe that the identification of the physical address associated with IP address 98.70.37.156 may resolve this overarching factual dispute, and that it would be prudent and efficient to serve a subpoena seeking such limited information on BellSouth at this early juncture;

WHEREAS, given that the information obtained from the BellSouth subpoena may significantly narrow the disputed issues, the Parties have agreed upon a 45-day extension of Defendant's original November 25, 2013 response deadline so that they may be afforded an opportunity to receive and review such information, and, if appropriate, discuss resolution of this lawsuit;

WHEREAS, this stipulation is not brought for purposes of delay, but rather, is brought in the spirit of cooperation, conservation, and expediency.

NOW THEREFORE, the Parties stipulate as follows:

1. Pursuant to FRCP 26(d)(1), Plaintiff may serve limited third party discovery to identify the physical address associated with IP address 98.70.37.156; and

2. Pursuant to Western District Local Rule 7.E., Defendant's deadline to respond to the Complaint is extended to January 9, 2014, which is 45 days from the original due date

IT IS SO STIPULATED.

Respectfully submitted,

Dated: November 13, 2013

MATTHEW SMITH, individually and on behalf
of all others similarly situated,

BY: / s / William R. Caroselli
One of Plaintiff's Attorneys

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**Admission to be sought*

Counsel for Plaintiff Smith and the Putative Class

Dated: November 13, 2013

GREAT CLIPS, INC.

By: /s/ Thomas L. Allen
One of Defendant's attorneys

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CERTIFICATE OF SERVICE

I, hereby certify that on November 13, 2013 I served the above and foregoing Plaintiff's Reply in Support of Class Certification by causing true and accurate copies of such paper to be filed and transmitted to all counsel of record via the Court's CM/ECF electronic filing system.

**CAROSELLI BEACHLER MCTIERNAN
& CONBOY, LLC**

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